

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,)	
)	CRIMINAL ACTION FILE
v.)	
)	NUMBER 1:10-cr-468-TCB
ALI COLE,)	
)	
Defendant.)	

ORDER

This matter is before the Court on Defendant Ali Cole's objections [80] to Magistrate Judge King's Report and Recommendation (the "R&R") [77], which recommends that Cole's two motions to suppress evidence obtained from the execution of two federal search warrants be denied.

A district judge has a duty to conduct a "careful and complete" review of a magistrate judge's R&R. *Williams v. Wainwright*, 681 F.2d 732, 732 (11th Cir. 1982) (quoting *Nettles v. Wainwright*, 677 F.2d 404, 408 (5th Cir. 1982)).¹ Where no objection to the R&R is made, it need only be

¹ The Eleventh Circuit has adopted as binding precedent all Fifth Circuit decisions issued before October 1, 1981, as well as all decisions issued after that date by a Unit B panel of the former Fifth Circuit. *Stein v. Reynolds Sec., Inc.*, 667 F.2d 33, 34 (11th Cir.

reviewed for clear error. *Macort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006).² Where objections are made, a district judge “shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C). The district judge must “give fresh consideration to those issues to which specific objection has been made by a party.” *Jeffrey S. v. State Bd. of Educ. of Ga.*, 896 F.2d 507, 512 (11th Cir. 1990).

After conducting a complete and careful review of the R&R, the district judge may accept, reject or modify the magistrate judge’s findings and recommendations. 28 U.S.C. § 636(b)(1)(C); *Williams*, 681 F.2d at 732. The district judge may also receive further evidence or recommit the matter to the magistrate judge with instructions. 28 U.S.C. § 636(b)(1)(C).

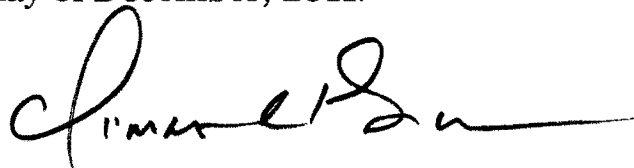
1982); *see also United States v. Schultz*, 565 F.3d 1353, 1361 n. 4 (11th Cir. 2009) (discussing continuing validity of *Nettles*).

² *Macort* addressed only the standard of review applied to a magistrate judge’s factual findings; however, the Supreme Court has held that there is no reason for the district court to apply a different standard of review to a magistrate judge’s legal conclusions. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Thus, district courts in this circuit have routinely applied a clear-error standard to both. *See Tauber v. Barnhart*, 438 F. Supp. 2d 1366, 1373–74 (N.D. Ga. 2006) (collecting cases). By contrast, the standard of review on appeal distinguishes between the factual findings and legal conclusions. *See Monroe v. Thigpen*, 932 F.2d 1437, 1440 (11th Cir. 1991) (when magistrate judge’s findings of fact are adopted by district court without objection, they are reviewed on appeal under plain-error standard, but questions of law remain subject to *de novo* review).

The Court has conducted a careful review of the R&R and Cole's objections thereto. Having done so, the Court finds that Magistrate Judge King's factual and legal conclusions were correct and that Cole's objections have no merit. The two search warrants at issue did not violate the Fourth Amendment for the reasons Cole contends, nor are they deficient under *Groh v. Ramirez*, 540 U.S. 551 (2004).

Thus, the Court ADOPTS AS ITS ORDER the R&R [77] and DENIES Cole's motions to suppress [68, 69].

IT IS SO ORDERED this 21st day of December, 2011.

A handwritten signature in black ink, appearing to read "Timothy C. Batten, Sr.", written over a horizontal line.

Timothy C. Batten, Sr.
United States District Judge